

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86587227
LAW OFFICE ASSIGNED	LAW OFFICE 104
MARK SECTION	
MARK	<a href="http://tmng-al.uspto.gov/resting2/api/img/86587227/large">http://tmng-al.uspto.gov/resting2/api/img/86587227/large</a>
LITERAL ELEMENT	GROUNDED COFFEE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>This Request for Reconsideration is being submitted in response to the Final Office Action issued on March 7, 2016, a response to which is due by September 7, 2016.</p> <p>Applicant thanks the Examining Attorney for deeming the requirement to amend the description of goods satisfied.</p> <p>Applicant respectfully traverses the Examining Attorney's maintenance of her refusal to register the applied-for GROUNDED COFFEE mark on the grounds that it is merely descriptive under Section 2(e)(1) of the Trademark Act for the reasons in Applicant's response to the previous Office Action, which is incorporated herein by reference, as well as for the reasons outlined below.</p> <p>As noted in Applicant's response to the previous Office Action, which was issued on July 22, 2015, the wording of Applicant's mark is "GROUNDED COFFEE", not "GROUND COFFEE". Therefore, Applicant respectfully submits that the term "GROUNDED" does not describe a feature of the goods Applicant intends to offer in connection with its mark, but is at most suggestive of such goods.</p> <p>As noted in the Merriam-Webster dictionary, the term "grounded" is "used to describe a person who is sensible and has a good understanding of what is really important in life", "mentally and emotionally stable", "admirably sensible, realistic, and unpretentious". <a href="http://www.merriam-webster.com/dictionary/grounded">http://www.merriam-webster.com/dictionary/grounded</a>, accessed September 7, 2016 (Exhibit A).</p> <p>Likewise, the Examining Attorney's evidence of the meaning of "grounded" does not describe a feature of Applicant's goods. According to the Examining Attorney's evidence, "grounded" means "Of or pertaining to an electrical conductor which is connected to earth; earthed", "Not allowed to fly", "Confined to one's room, typically by a parent, as a punishment", "Mature, sensible with well-considered priorities", "Simple past tense and past participle of ground". None of which describe a feature of Applicant's goods.</p> <p>On the other hand, "ground" is a past participle of "grind". <a href="http://www.merriam-webster.com/dictionary/ground">http://www.merriam-webster.com/dictionary/ground</a>, accessed September 7, 2016 (Exhibit B). However, "ground" has many other definitions as well, as shown in Exhibit B.</p> <p>Further, Applicant respectfully submits that the Examining Attorney is conflating the definitions of "GROUNDED", which is the term used in Applicant's mark, and "GROUND" which can describe coffee, as noted in the Examining Attorney's evidence, but which does not comprise Applicant's mark and does not describe a feature or characteristic of Applicant's goods. Neither the Examining Attorney's evidence, nor any other evidence of record in the instant case, supports the assertion that "GROUNDED" is descriptive as it relates to Applicant's goods.</p> <p>In fact, Applicant respectfully submits that the term "GROUNDED" in its GROUNDED COFFEE mark is an arbitrary term as it relates to Applicant's goods, with the term having no meaning in the coffee industry. Therefore, Applicant respectfully requests that the Examining Attorney withdraw her refusal under Section 2(e)(1) of the Trademark Act, as Applicant's mark is at most suggestive of the goods in connection with which its mark will be used.</p>	

In conclusion, Applicant respectfully requests that the Examining Attorney withdraw her refusal under Section 2(e)(1) of the Trademark Act. Thus, Applicant respectfully submits that its application is now in condition for publication for opposition.

A Notice of Appeal is being filed concurrently herewith.

Sincerely,

/kenya l. williams/

Kenya L. Williams

Gary M. Anderson

Attorneys for Applicant

Fulwider Patton LLP

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Los Angeles, CA 90045

Tel: (310) 824-5555

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## EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	<a href="#">evi_38751439-20160907220159674168_.Exh. A-Grounded Definition of Grounded by Merriam-Webster.PDF</a>
CONVERTED PDF FILE(S) (4 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0002.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0003.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0004.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0005.JPG</a>
ORIGINAL PDF FILE	<a href="#">evi_38751439-20160907220159674168_.Exh. B-Ground Definition of Ground by Merriam-Webster.PDF</a>
CONVERTED PDF FILE(S) (12 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0006.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0007.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0008.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0009.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0010.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0011.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0012.JPG</a>
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	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0015.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0016.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\865\872\86587227\xml8\RFR0017.JPG</a>
DESCRIPTION OF EVIDENCE FILE	Exhibits A and B to the Request for Reconsideration, which consist of printouts from the Merriam-Webster Dictionary Online.
CORRESPONDENCE SECTION	

<b>ORIGINAL ADDRESS</b>	GARY M. ANDERSON, Fulwider Patton Llp 6060 Center Dr Fl 10 Los Angeles California US 90045-1598
<b>NEW CORRESPONDENCE SECTION</b>	
<b>NAME</b>	GARY M. ANDERSON,
<b>FIRM NAME</b>	Fulwider Patton LLP
<b>DOCKET/REFERENCE NUMBER</b>	RTEEG-93962
<b>STREET</b>	6100 Center Drive, Suite 1200
<b>CITY</b>	Los Angeles
<b>STATE</b>	California
<b>ZIP/POSTAL CODE</b>	90045
<b>COUNTRY</b>	United States
<b>PHONE</b>	310-824-5555
<b>FAX</b>	310-824-9696
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/kenya l. williams/
<b>SIGNATORY'S NAME</b>	Kenya L. Williams
<b>SIGNATORY'S POSITION</b>	Associate Attorney, Fulwider Patton LLP, California Bar Member
<b>SIGNATORY'S PHONE NUMBER</b>	(310) 824-5555
<b>DATE SIGNED</b>	09/07/2016
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Wed Sep 07 22:11:18 EDT 2016
<b>TEAS STAMP</b>	USPTO/RFR-XX.XX.XX.XX-201 60907221118823694-8658722 7-550dbf7e64367b5af77f50e 929523a3519ccef6c80e3c2eb faa5b189de45ae474c-N/A-N/ A-20160907220159674168

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OMB No. 0651-0050 (Exp 07/31/2017)

### Request for Reconsideration after Final Action

#### To the Commissioner for Trademarks:

Application serial no. **86587227** GROUNDED COFFEE(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86587227/large>) has

been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

This Request for Reconsideration is being submitted in response to the Final Office Action issued on March 7, 2016, a response to which is due by September 7, 2016.

Applicant thanks the Examining Attorney for deeming the requirement to amend the description of goods satisfied.

Applicant respectfully traverses the Examining Attorney's maintenance of her refusal to register the applied-for GROUNDED COFFEE mark on the grounds that it is merely descriptive under Section 2(e)(1) of the Trademark Act for the reasons in Applicant's response to the previous Office Action, which is incorporated herein by reference, as well as for the reasons outlined below.

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As noted in the Merriam-Webster dictionary, the term "grounded" is "used to describe a person who is sensible and has a good understanding of what is really important in life", "mentally and emotionally stable", "admirably sensible, realistic, and unpretentious". <http://www.merriam-webster.com/dictionary/grounded>, accessed September 7, 2016 (Exhibit A).

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In fact, Applicant respectfully submits that the term "GROUNDED" in its GROUNDED COFFEE mark is an arbitrary term as it relates to Applicant's goods, with the term having no meaning in the coffee industry. Therefore, Applicant respectfully requests that the Examining Attorney withdraw her refusal under Section 2(e)(1) of the Trademark Act, as Applicant's mark is at most suggestive of the goods in connection with which its mark will be used.

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A Notice of Appeal is being filed concurrently herewith.

Sincerely,

/kenya l. williams/

Kenya L. Williams

Gary M. Anderson

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## **EVIDENCE**

Evidence in the nature of Exhibits A and B to the Request for Reconsideration, which consist of printouts from the Merriam-Webster Dictionary Online, has been attached.

### **Original PDF file:**

[evi\\_38751439-20160907220159674168\\_.Exh. A-Grounded\\_Definition\\_of\\_Grounded\\_by\\_Merriam-Webster.PDF](#)

### **Converted PDF file(s) ( 4 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

### **Original PDF file:**

[evi\\_38751439-20160907220159674168\\_.Exh. B-Ground\\_Definition\\_of\\_Ground\\_by\\_Merriam-Webster.PDF](#)

### **Converted PDF file(s) ( 12 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

## **CORRESPONDENCE ADDRESS CHANGE**

Applicant proposes to amend the following:

### **Current:**

GARY M. ANDERSON,  
Fulwider Patton Llp  
6060 Center Dr Fl 10  
Los Angeles  
California  
US  
90045-1598

### **Proposed:**

GARY M. ANDERSON, of Fulwider Patton LLP, having an address of  
6100 Center Drive, Suite 1200 Los Angeles, California 90045  
United States  
310-824-5555  
310-824-9696  
The docket/reference number is RTEEG-93962 .

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /kenya l. williams/ Date: 09/07/2016

Signatory's Name: Kenya L. Williams

Signatory's Position: Associate Attorney, Fulwider Patton LLP, California Bar Member

Signatory's Phone Number: (310) 824-5555

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior

representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: GARY M. ANDERSON,  
Fulwider Patton LLP  
6100 Center Drive, Suite 1200  
Los Angeles, California 90045

Serial Number: 86587227

Internet Transmission Date: Wed Sep 07 22:11:18 EDT 2016

TEAS Stamp: USPTO/RFR-XX.XX.XX.XX-201609072211188236

94-86587227-550dbf7e64367b5af77f50e92952

3a3519ccef6c80e3c2ebfaa5b189de45ae474c-N

/A-N/A-20160907220159674168

# **EXHIBIT A**



SINCE 1828

GAMES | THESAURUS | WORD OF THE DAY | VIDEO | WORDS AT PLAY | FAVORITES

Follow:



grounded

An Encyclopædia Britannica Company

# grounded

adjective | ground·ed |

Popularity: Top 20% of words

## Simple Definition of GROUNDED

—used to describe a person who is sensible and has a good understanding of what is really important in life

Source: Merriam-Webster's Learner's Dictionary

**Examples:** GROUNDED in a sentence ☐

## Full Definition of GROUNDED

: mentally and emotionally stable : admirably sensible, realistic, and unpretentious <remains *grounded* despite all the praise and attention>

See **grounded** defined for English-language learners

### WORD OF THE DAY

## untoward

unruly, unfavorable, or improper

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## Examples of GROUNDED in a sentence

<once his boat was *grounded*, all he could do was wait for the tide to come back in and raise it off the sand bar>

## First Known Use of GROUNDED

1958

1958

## Related to GROUNDED

Synonyms

beached, aground, stranded

Antonyms



## Rhymes with GROUNDED

bounded, rounded

### TRENDING NOW

1 **sophomoric**

"It's a sophomoric approach"

2 **Labor Day**

From the folks who brought you the ...

3 **hagiography**

Who caused this spike?

4 **bigot, bigotry**

Trump: "Hillary Clinton is a bigot!"

5 **ransom**

"We do not pay ransom"

[SEE ALL >](#)

### BROWSE DICTIONARY

groundburst

ground cable

ground casing

ground cedar

ground centaury



## Phrases related to GROUNDED

### Related Phrases

grounded in

### Learn More about GROUNDED

Thesaurus: *All synonyms and antonyms for grounded*

Nglish: *Translation of grounded for Spanish speakers*

Britannica English: *Translation of grounded for Arabic speakers*

### WORD GAMES

Take a 3-minute break and test your skills!



Which is the best synonym of **bowdlerize**?

censor

adorn

harden

replace



Test your visual vocabulary with our 10-question challenge!

**TAKE THE QUIZ >**



Test Your Knowledge - and learn some interesting things along the way.

**TAKE THE QUIZ >**

### Seen and Heard

What made you want to look up *grounded*? where you read or heard it (including the possible).

#### 43 Comments



Add a comment...






**John Urquhart** · Owner at Welditall Ltd

My sister says I'm not very grounded ...I

[Like](#) · [Reply](#) · Aug 21, 2016 7:21pm

# **EXHIBIT B**

GAMES | THESAURUS | WORD OF THE DAY | VIDEO | WORDS AT PLAY | FAVORITES Follow:  

 SINCE 1828

An Encyclopædia Britannica Company

<sup>1</sup> ground   
*noun, often attributive* |

Popularity: Top 40% of words

## Simple Definition of GROUND

**the ground** : the surface of the earth

: the soil that is on or under the surface of the earth

: an area of land

Source: Merriam-Webster's Learner's Dictionary

**Examples:** GROUND in a sentence ☐

## Full Definition of GROUND

- 1 **a** : the bottom of a body of water  
**b plural** (1) : **SEDIMENT** 1 (2) : ground coffee beans after brewing
- 2 **a** : a basis for belief, action, or argument <ground for complaint> —often used in plural <sufficient grounds for

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**TAP YOUR AGE:**

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26-35	56-65
36-45	Over 65

**Calculate New House Payment**

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**WORD OF THE DAY**

**untoward** 

unruly, unfavorable, or improper

Get Word of the Day daily email!

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divorce>

**b** (1) : a fundamental logical condition (2) : a basic metaphysical cause

- 3**    **a** : a surrounding area : **BACKGROUND**  
      **b** : material that serves as a substratum

- 4**    **a** : the surface of the earth  
      **b** : an area used for a particular purpose <the parade *ground*> <fishing *grounds*>  
      **c plural** : the area around and belonging to a house or other building  
      **d** : an area to be won or defended in or as if in battle  
      **e** : an area of knowledge or special interest <covered a lot of *ground* in his lecture>

- 5**    **a** : **SOIL, EARTH**  
      **b** : a special soil

- 6**    **a** : an object that makes an electrical connection with the earth  
      **b** : a large conducting body (as the earth) used as a common return for an electric circuit and as an arbitrary zero of potential  
      **c** : electric connection with a ground

- 7**    : a football offense utilizing primarily running plays

#### —from the ground up

- 1**    : entirely new or afresh  
**2**    : from top to bottom : **THOROUGHLY**

#### —into the ground

: beyond what is necessary or tolerable : to exhaustion <labeled an issue *into the ground* — *Newsweek*>

#### TRENDING NOW

- 1** **sophomoric**  
"It's a sophomoric approach"
- 2** **Labor Day**  
From the folks who brought you the ...
- 3** **hagiography**  
Who caused this spike?
- 4** **bigot, bigotry**  
Trump: "Hillary Clinton is a bigot!"
- 5** **ransom**  
"We do not pay ransom"

[SEE ALL >](#)

#### BROWSE DICTIONARY

gross tonnage  
grossular  
grossularia  
grossulariaceae  
grossularite



—off the ground

: in or as if in flight : off to a good start <the program never got *off the ground*>

—on the ground

: at the scene of action

## Examples of GROUND in a sentence

An apple fell to *the ground*.

Mechanical problems kept the plane on *the ground*.

They were lying on *the ground*.

The flight was watched by many observers on *the ground*.

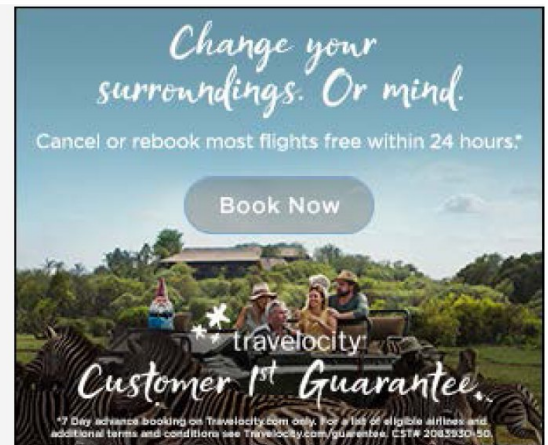
planting seeds in the *ground*

She drove a spike into the *ground*.

They built their house on bare *ground*.

We realized that we were on hallowed *ground*.

They built their house on high *ground*.



### WORD GAMES

Take a 3-minute break and test your skills!



Name that color:

wisteria

orange

chartreuse

aqua



Test your visual vocabulary with our 10-question challenge!

[TAKE THE QUIZ >](#)



Test Your Knowledge - and learn some interesting things along the way.

[TAKE THE QUIZ >](#)



Each fall the birds return to their wintering *grounds*.



steamed  
to perfection

Save Now ▶

AVAILABLE AT



## Origin and Etymology of GROUND

Middle English, from Old  
English *grund*  akin to Old  
High German *grunt* *ground*

## Related to GROUND

Synonyms

**demesne**, **park**, **premises**  
(*also* **premisses**), **yard**

Related Words 

# <sup>2</sup>ground

*verb*

## Simple Definition of GROUND

: to provide a basis or reason for (something)

: to cause a ship or boat to hit the ground below the water  
so that it cannot move

: to prevent (an aircraft or a pilot) from flying

Source: Merriam-Webster's Learner's Dictionary

## Full Definition of GROUND

### transitive verb

- 1    **a** : to bring to or place on the ground  
     **b** : to cause to run aground
- 2    **a** : to provide a reason or justification for <our fears about technological change may be well *grounded* — L. K. Williams>  
     **b** : to furnish with a foundation of knowledge : **BASE**  
     <an understanding ... that is *grounded* in fact — Michael Kimmelman>
- 3    : to connect electrically with a ground
- 4    **a** : to restrict to the ground <*ground* a pilot>  
     **b** : to prohibit from taking part in some usual activities  
     <*grounded* her for a week>
- 5    : to throw (a football) intentionally to the ground to avoid being tackled for a loss

### intransitive verb

- 1    : to have a ground or basis : **RELY**
  - 2    : to run aground
  - 3    : to hit a **grounder** <*grounded* back to the pitcher>
- 

## Examples of GROUND in a sentence



They *grounded* the ship on a sandbar.

The plane was *grounded* by mechanical problems.

Bad weather *grounded* his flight.

a pilot *grounded* by health problems

## First Known Use of GROUND

13th century

## Related to GROUND

Synonyms

base, hang, predicate, rest

Related Words

establish, found, assume,

# <sup>3</sup>ground

## Definition of GROUND

*past and past participle of* GRIND

## Rhymes with GROUND

bound, crowned, found,  
hound, mound, pound,  
round, sound, stound,  
swound wound

## Phrases related to GROUND

### Related Phrases

burial ground  
feeding ground  
grind down  
ground level  
ground staff  
dangerous ground/territory  
familiar ground  
gain ground on  
get off the ground  
grind along

## GROUND Defined for Kids



### Definition of GROUND for Students

- 1 : the surface of the earth <Leaves fell to the *ground*.>
- 2 : <sup>2</sup>SOIL 1, EARTH <The beans themselves popped out of the *ground*. — Laura Ingalls Wilder, *Little House on the Prairie*>
- 3 : the bottom of a body of water <The boat struck *ground*.>
- 4 : an area of land <sacred *ground*>
- 5 : an area used for some purpose <a hunting *ground*>
- 6 **grounds plural** : the land around and belonging to a building <the school *grounds*>
- 7 : BACKGROUND 1
- 8 : a reason for a belief, action, or argument <What is the *ground* for your complaint?>
- 9 : an area of knowledge <We covered a lot of *ground* in class.>
- 10 : a level of achievement or success <The company is losing *ground*.>
- 11 **grounds plural** : material in a liquid that settles to the bottom <coffee *grounds*>

## <sup>2</sup>ground

*verb*

### Definition of GROUND for Students

**grounded**   **grounding**

- 1** : to provide a reason for <The practices are *grounded* in tradition.>
- 2** : to instruct in basic knowledge or understanding <The students are well *grounded* in math.>
- 3** : to run or cause to run aground <*ground* a ship>
- 4** : to connect electrically with the ground
- 5** : to prevent (a plane or pilot) from flying
- 6** : to prohibit from taking part in certain activities as punishment <My parents *grounded* me for a week.>

## <sup>3</sup>ground

### Definition of GROUND for Students

*past and past participle of* GRIND

## Medical Dictionary

ground

### Medical Definition of GROUND

*past and past part of* grind

## Law Dictionary

<sup>1</sup>ground  
*noun*

## Legal Definition of GROUND

- 1 : the foundation or basis on which knowledge, belief, or conviction rests : a premise, reason, or collection of data upon which something (as a legal action or argument) relies for validity <sued the city on the *ground* that the city...had wrongfully released...records — *City of Lawton v. Moore*, 868 P.2d 690 (1993)> <listed adultery and alcoholism as the *grounds* for divorce>
- 2 : a piece or parcel of land <the design being to create high *ground* for use during overflow periods — *Bright v. Perkins*, 239 S.W.2d 281 (1951)> <a sudden disruption of a piece of *ground* from one man's land — *Porter v. Arkansas Western Gas Co.*, 482 S.W.2d 598 (1972)>

— **groundless** *adjective*

<sup>2</sup>ground  
*transitive verb*

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: to furnish a ground for : set on a basis <that court *grounded* the disclosure requirement in negligence law — *Scott v. Bradford*, 606 P.2d 554 (1979)> <an argument *grounded* on falsehoods>